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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICROSOFT CORPORATION, a)
Washington corporation,)
)
 Plaintiff,)
)
 vs.) No. 04 C 7687
)
)
ERA SOFT CORPORATION, an)
Illinois corporation d/b/a ERA LIMITED,)
and ALEKS RECHANIK, an individual,)
)
 Defendants.)

MEMORANDUM OPINION AND ORDER

Plaintiff sued Aleks Rechanik and a related firm in Ohio, in 1999, for distribution of a counterfeit product. That resulted in a permanent injunction and a judgment for \$980,000 plus fees. The judgment was satisfied. The case put the Ohio firm out of business and Rechanik began again in Illinois, this time through ERA Soft Corporation (ERA). ERA buys software and then sells it to others.

The problem, as amply supported by the summary judgment record, is that some of the purported Microsoft software ERA buys and sells is counterfeit. It appears from Rechanik's deposition that he does not deliberately go out to buy counterfeit software. He goes out to buy software as cheaply as he can, from whatever vendors are in the market, authorized or not, and some of it is counterfeit – he never checks.

Plaintiff has filed a motion for summary judgment. Defendants have had attorneys, but they withdrew. ERA is a corporation. It has to be represented, but is not, so it has never responded to the motion. Rechanik has responded, but it is very difficult to understand what

he has in mind. He would like to get a lawyer and then respond. But we are past that in this 2004 case, particularly since he concedes that he never checks to determine if his product is counterfeit. He suggests he is protected by a 2002 release, but the conduct complained of here is subsequent to 2002. The real problem here apparently is that Rechanik does not believe he is responsible for counterfeit product unless he intended to market counterfeit product and knew he was doing so. He is wrong.

Plaintiff is entitled to injunctive relief and the statutory judgment sought. It should submit an appropriate order within 14 days.



JAMES B. MORAN
Senior Judge, U. S. District Court

Nov. 6, 2006.